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ABSTRACT

This publication is designed to clarify and amplify the 1975 booklet of the same title prepared by the Department of Health, Education, and Welfare (DHEW). The requirements for providing education to non-English speakers are first placed in their historical context. Suggestions for the basic elements to include in an affirmative action plan for complying with the requirements are stated simply. These include establishment of an official district policy for equal educational opportunity, alerting the community and district personnel to the situation, and a four-part program of identifying non-English-speaking students, assessing their linguistic proficiency, determining their achievement levels, and placing them in programs designed to meet their educational needs. Additional items to consider are listed, and a partial directory of agencies offering resources (particularly to educators in Arizona and the southwestern United States) is provided. An appendix includes pertinent DHEW memoranda, the text of the 1975 DHEW booklet, and language survey materials. (Author/PGD)

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Task Force Findings

Lau versus Nichols

ED158358

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SUGGESTIONS FOR COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 AS IT PERTAINS TO STUDENTS WITH A PRIMARY LANGUAGE OTHER THAN ENGLISH

Recommended By
The Arizona State
Superintendent's
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February 16, 1977

Mr. David H. Kennon, Chairperson
Task Force
Arizona Department of Education
1535 West Jefferson
Phoenix, AZ 85007

Dear Mr. Kennon:

Thank you for your letter of October 15, 1976, in which you transmit a copy of the draft guidelines developed by the "Task Force" appointed by Mrs. Carolyn Warner.

We truly appreciate the efforts of the Task Force in developing what we consider to be, from an educational perspective, a very helpful document. However, as a law enforcement agency, we must view the guidelines strictly as a tool which a school district can use to reach eventual compliance. We feel that a school district which follows the suggestions contained in the guidelines and takes advantage of the information they provide will increase the effectiveness of its efforts to achieve compliance. However, we cannot predict the efficacy of the guidelines with respect to their use by any specific school district without first examining the specific conditions which led to the district's status of non-compliance. As we have noted earlier to you, it is not our policy to mandate specific compliance plans to local school districts and a district which chooses to follow alternative compliance plans may do so as long as it can show that the alternatives are as effective as the suggestions of the Task Force document.

We hope that the preceding comments are helpful and hope that you convey our sincere appreciation to all of the members of your Task Force. Their initiative and commitment are exemplary. Please let me know if I can be of further assistance.

Sincerely,

John E. Palomino
Education Branch Chief

T1/04/jb/2.15

PREFACE

A major educational goal which has universal acceptance is that every student is entitled to equal educational opportunity regardless of race, color, national origin, sex, marital status, or handicap.

It is an educational obligation and the responsibility of each district within the State of Arizona to assure that equal educational opportunity for students is recognized in all programs for school-age youth, and that there is no discrimination. This State Task Force is of the view that, in addition to the professional responsibility, it is equally important that there be a commitment, both socially and morally, and that the school districts are obligated to assure that all school-age youth of the state are provided an equal educational opportunity.

In addition to the above foundation, it behooves each educator to be aware of significant laws which assure each individual student his/her property right of equal opportunity. From a judicial framework the Department of Health, Education, and Welfare (H.E.W.), through its division of the Office for Civil Rights (O.C.R.), is responsible for enforcing the following antidiscrimination authority.

1. Title VI of the Civil Rights Act of 1964, which bars discrimination on the basis of race, color, and national origin in Federally assisted programs.

2. Title IX of the Educational Amendments of 1972, which bars discrimination on the basis of sex in Federally assisted educational programs.

3. Sections 799A and 845 of the Public Health Service Act, which bar discrimination on the basis of sex in Federally assisted health professional training programs.

4. Section 504 of the Rehabilitation Act of 1973, which bars discrimination on the basis of a handicap in Federally assisted programs.

5. Executive Order 11246, as amended, which bars employment discrimination on the basis of race, color religion, sex, and national origin by Federal contractors.

The Office for Civil Rights authority extends to elementary and secondary schools, institutions of higher education, health and social service agencies, research agencies, membership organizations, and constructional contractors.

Not only are the local education agencies/school districts of Arizona legally responsible for assuring that there is no discrimination in their educational programs, but the State Department of Education has an equal

responsibility not to allow discrimination within its jurisdiction. To assure that all students enrolled in public educational institutions are provided an equal educational opportunity, the state educational plans for Federal funds which are submitted by the State Department of Education are significant in that they are an assurance, through that state plan, that all local educational units in the state are in full compliance with the public laws, rules, and regulations.

This task force has been charged with the responsiblity of developing guidelines for equal educational opportunity with respect to national origin. The following authority is offered for the reader's perusal:

1. Title VI of the Civil Rights Act of 1964 as amended (42 USC 2000d), and Department of Health, Education, and Welfare (HEW) regulations issued pursuant to that Title (45 CFR 80) prohibit discrimination on the grounds of race, color, or national origin of recipients of Federal financial assistance.

2. To further clarify school districts' responsibilities with respect to national origin minority children, HEW on May 25, 1970, issued a policy statement (35 FR 11595) stating in part that "where inability to speak and understand the English language excludes national origin minority group children from effective participation in the educational program offered by a school district, the district must take affirmative steps to rectify the language deficiency in order to open its instructional program to the students."

3. The United States Supreme Court in the case of Lau v. Nichols (414 US 563, 94 SCt 786 [1974]) expressly upheld HEW's regulations as interpreted by the policy statement referred to above, prohibiting educational practices by which "...students who do not understand English are effectively foreclosed from any meaningful education."

The following document is intended to be an assist to each school district in the State of Arizona in determining its educational responsibility, as well as legal compliance, in assuring that youth enrolled in educational programs are not deprived of equal educational opportunity as a result of linguistic deficiencies.

This document offers a procedure for self-evaluation in terms of analyzing to what degree a deprivation of educational opportunity does exist as a result of the student's limited English-speaking ability, limited understanding of the English language, or achievement levels in accordance with a school district's identified standards for competencies.

This document also provides assistance for the identification assessment, diagnosis, and prescriptive educational programs which are suggested in order to provide equal educational opportunity to the youth which the school district serves.

ACKNOWLEDGMENTS

The task force members would like to express their appreciation to Mr. Ray Rodriguez and the staff of C.A.C.T.I. for the technical assistance that they so generously offered.

Without the help of their conscientious writers and staff, the production of this document would have been vastly more difficult.

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H.E.W. Memorandum of May 25, 1970
H.E.W. Departmental Position on Bilingual Education
Task Force Findings Specifying Remedies Available for Eliminating Past Educational Practices Ruled Unlawful Under Lau vs Nichols
H.E.W. Survey Form 101
Language Surveys

I. LEGAL BASIS FOR COMPLYING WITH TITLE VI, SEC. 601

The basis for the more recent interpretations of the legal obligation of school districts to comply with Title VI of the Civil Rights Act of 1964[1] as it relates to national origin minority group students can best be understood through a review of the legislation and litigation that has taken place. Section 601 of the Civil Rights Act and Lau vs. Nichols[2] are two major documents for review.

Section 601 of the Civil Rights Act of 1964 states in part:

> "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance."

H.E.W. issued regulations to prevent school districts from restricting "...an individual in any way in the enjoyment of any advantage or privilege enjoyed by others, receiving any service, financial aid, or other..."

On May 25, 1970, H.E.W. issued a Memorandum to all school districts with more than five percent national origin-minority group children. It stated in part as follows:

> "(1) Where inability to speak and understand the English language excludes national origin-minority group children from effective participation in the educational program offered by a school district, the district must take affirmative steps to rectify the language deficiency in order to open its instructional program to these students."[3]

The Memorandum goes on to specify regulations for special education evaluation and assignments, ability grouping for tracking and parent notification. School districts were told to examine their practices and communicate immediately in writing with the Office of Civil Rights indicating the steps they were taking to comply with the regulations.

Four years after the May 25, 1970 Memorandum, the regulations set forth by H.E.W. were tested in the Courts through Lau vs. Nichols. 1,800 students of Chinese ancestry alleged that the failure of the school districts to offer supplemental courses in English to Chinese speaking students in the San Francisco school system was a violation

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1. Public Law 88-353, 78 Stat, 252
2. 45 CFR Sec. 80,3(b) (1) (iv).
3. J. Stanley Pottinger, Office for Civil Rights, Memorandum to School Districts with "More Than Five Percent National Origin-Minority Group Children", May 25, 1970, 35 Federal Regulation 11595

of both the Equal Protection Clause and of Section 601 of the Civil Rights Act of 1964. The Supreme Court affirmed the interpretation of Title VI and the supporting H.E.W. regulations and policy statement of May 25, 1970 and ruled in favor of the students:

> "Under these state-imposed standards there is no equality of treatment merely by providing students with the same facilities, textbooks, teachers, and curriculum; for students who do not understand English are effectively foreclosed from any meaningful education.
>
> "Basic English skills are at the very core of what these public schools teach. Imposition of a requirement that, before a child can effectively participate in the educational program, he must already have acquired those basic skills is to make a mockery of public education. We know that those who do not understand English are certain to find their classroom experience wholly incomprehensible and in no way meaningful."
>
> "...It seems obvious that the Chinese-speaking minority receives less benefits than the English-speaking minority from respondents' school system which denies them a meaningful opportunity to participate in the educational program..."[4]

In 1974, a third major document, The Equal Educational Opportunity Act[5] was passed by Congress. It states in part:

> "Sec. 1703. No state shall deny equal educational opportunity to an individual on account of his or her race, color, sex, or national origin by..."
>
> " (f) The failure by an educational agency to take appropriate action to overcome language barriers that impede equal participation by students in its instructional programs."

By enactment of this statute, school districts not covered by Title VI, are subject to the Title VI regulations concerning language barriers. The decision by the U.S. Fifth Circuit Court of Appeals in Morales vs. Shannon[6] points this out. The appellate court felt that by providing a bilingual bicultural program, the schools in Uvalde County, Texas were "taking appropriate action to overcome language barriers." The decision referred to Lau vs. Nichols implying that the Court felt compliance with Title VI regulations would remediate the situation:

> "It strikes us that this entire question goes to a matter reserved to educators. However, on the off chance that defendants are engaging in discriminatory practices in the program as it currently

---

4. 414 U.S. 563, 566, 568, 94 sct. 786 (1974)
5. Public Law 93-380, 88 Stat. 484, 20 USC 821.
6. 366 F. Supp. 813 (WD, Texas, 1973), rev'd in part, 516 F 2d 411 (5th Circ. 1975)

exists, we ... remand to the district court for further consideration thereon a fresh record in the event appellants determine to pursue the question.

"It is now an unlawful educational practice to fail to take appropriate action to overcome language barriers. See Sec. 204(f) of the Equal Educational Opportunity (sic) Act of 1974 ... See also Lau vs. Nichols."[7]

The equal protection clause and Section 601 of Title VI were again referred to in Serna vs. Portales Municipal Schools,[8] where discrimination against Mexican Americans was alleged because of failure to provide an adequate bilingual bicultural program. The decision of discrimination by the lower court was upheld by the United States Circuit Court, 10th Circuit, with reference to Lau:

"The trial court noted in its memorandum opinion that appellees claimed deprivation of equal protection guaranteed by the 14th amendment and of their statutory rights under Title VI of the Civil Rights Act, specifically, Sec. 601. While the trial court reached the correct result on equal protection grounds, we choose to follow the approach adopted by the Supreme Court in Lau; that is, appellees were deprived of their statutory rights under Title VI of the 1964 Civil Rights Act ..."[9]

II. IMPLICATIONS OF THE LAW

An analysis of the above indicates that all school districts are required to comply with the regulations specified by H.E.W. in the May 25, 1970 memorandum.

H.E.W. reports and surveys such as the School System Summary Report Form: OS/CR 101 (see appendices) can be required of your District. Such reports and/or a review of your district by the Office for Civil Rights (O.C.R.) may be the basis for requiring a comprehensive plan. (In April 1975, school superintendents in 26 states were asked to check the compliance of 333 school districts in providing language assistance to national origin-minority group students. Those districts found not to be in compliance were required to develop a plan for voluntary compliance.)

The failure or refusal to submit a plan for compliance may bring about a series of legal actions over a predesignated period of time. The action taken by O.C.R. for non-compliance may ultimately result in removal of Federal funds from your district. If your district receives no Federal funds or chooses to relinquish Federal funds, the court may still order compliance as a result of a class action suit.

---

7. 516 F 2d 411, 415, (1975)
8. 351 F Supp. 1279 (D.N.M. 1972) aff'd 499 F. 2d 1147
9. 499 F 2d. 1153 (1974)

In summary, according to Court decisions since Lau, it is clear that schools, whether or not they receive Federal funds, are obliged to comply with H.E.W. regulations clarifying Section 601 of Title VI, since they are duly obliged to do so under the Equal Education Opportunity Act of 1974, specifically Sec. 204(f). The Courts are using Lau vs. Nichols as a reference to clarify "...take appropriate action to overcome language barriers..."

III. SUGGESTIONS FOR AN EFFECTIVE PLAN

Up to the present date, the courts have not prescribed a specific educational plan for districts to follow if the district is not found to be in compliance. Some guidelines do exist, for example with Lau vs. Nichols. In the summer of 1975, educational strategies were outlined by H.E.W. in a booklet entitled Task Force Findings Specifying Remedies Available for Eliminating Practices Ruled Unlawful under Lau vs. Nichols (see appendices). The strategies outlined in the Task Force Findings seem to be acceptable guidelines for compliance with OCR reviews. Plans using other strategies are accepted if the district can demonstrate that they are at least as effective as those outlined in the Task Force Findings.

Should your district be required to submit a "plan," the suggestions that follow are in accord with the Task Force Findings and should be helpful in the development of a "plan."

For districts that wish to assure equal educational opportunities for students who speak languages other than English, even though not having been required to submit a plan, the following suggestions whould also serve as guidelines.

A. District Policy: Establish a policy that affirms the district's commitment toward providing equal educational opportunities to all students regardless of race, color, national origin, or sex. Such a policy should be consistent with Lau vs. Nichols and the 1970 memo.

B. Awareness Activities: Develop and implement awareness activities for the community and district personnel. Consider language(s) of the community. Activities should include:

1. An explanation and elaboration of your district's commitment to provide all students equal access to the curriculum and other services.

2. An explanation of the legal requirements for complying with Title VI of the Civil Rights Act of 1964 and with specific emphasis on national origin-minority group students.

3. An explanation of the process by which district staff and the community will take part in the development of a procedure/plan for meeting the educational needs of national origin-minority group students.

4. An explanation of the educational benefits derived by all students as a result of a well-implemented compliance procedure/plan.

C. Basic Requirements of a Plan: Develop a district procedure/plan for assuring that national origin-minority group students receive equal access to the curriculum and related services. The four basic requirements of an acceptable procedure/plan are as follows: (These basic requirements are illustrated in the flow charts on pages 8 and 9.)

1. Identification: Identify all students whose "primary" or "home" language is other than English.

   a. The "primary" or "home" language is other than English if it fits at least one of the following descriptions:

      (1) The language most often spoken in the student's home is other than English, regardless of the language spoken by the student.
      (2) The language most often spoken by the student is other than English.
      (3) The student's first acquired language is other than English.

   b. If a student fits at least one description, then an assessment is required.

2. Assessment: Determine the linguistic proficiency of those students whose "primary" or "home" language is other than English.

   a. The determination of the linguistic proficiency of students whose "primary" or "home" language is other than English must be made by persons who can speak and understand the "primary" or "home" language(s).

   b. At least two of the three assessment criteria listed below should cross-validate in order to make a more accurate determination of the linguistic proficiency. Minimum assessment criteria are:

      (1) The language most often spoken in the student's home.
      (2) The language most often spoken by the student in the home.
      (3) The language spoken by the student in the social setting.

   c. Language dominance and language preference instruments may also be used to validate your assessment.

   d. Categorize the student's linguistic proficiencies as follows:

      (1) Monolingual Other - Monolingual speaker of a language other than English.

(2) Predominant Other - Predominantly speaks a language other than English.
(3) Bilingual - Speaks a language other than English and English equally as well or as poorly.
(4) Predominant English - Predominantly speaks English.
(5) Monolingual English - Monolingual speaker of English.

3. Diagnosis: Determine achievement levels of students whose "primary" or "home" language is other than English.

   a. Achievement levels should be in accordance to your district's criteria for grade level competencies.

   b. Also see page 2 of Task Force Findings.

4. Prescription: Place students whose "primary" or "home" language is other than English in programs prescribed to meet their educational needs.

   a. The diagrams on pages 8 and 9 indicate the prescribed programs; definitions of programs are contained on pages 2-7 of the Task Force Findings.

   b. Also, see Exhibits and Samples, "Departmental (H.E.W.) Position on Bilingual Education."

   c. NOTE: How the basic requirements are satisfied will largely depend on the special needs and uniqueness of your district. Surveys and assessment instruments should be developed and/or obtained which satisfy the district's needs, but still contain the basic criteria described above.

D. Additional Considerations: The following are additional items which should also be considered in the development of a plan.

1. Prepare a preliminary statement of willingness to comply when requested by O.C.R.

2. Develop a procedure for parental participation.

3. Adopt a staffing policy that permits your district to recruit, hire, place, and transfer personnel in such a way that it is supportive of your procedure/plan thereby improving the opportunity for effective implementation.

4. Plan for and implement a staff development program that is supportive of your procedure/plan. Such a staff development program should include an opportunity for all staff to participate in some way regardless of assignment. It should also assist staff in becoming sensitive to the language and culture of all the students in the community.

5. Develop a systematic process for monitoring the procedure/ plan to assure proper implementation and continued improvement of programs.

6. Develop a procedure for eliminating and/or preventing discriminatory class assignments, for ability grouping, and for special education grouping.

7. Adopt a record keeping system that requires a minimum effort to maintain and that is consistent with the information required by H.E.W. forms. The size of your district and available resources will dictate the system.

8. Federal and state funds are available for bilingual instruction even though it is not "compensatory." Dependency on outside funding is not advisable, however. District funds should be apportioned for implementing procedures/plans in an amount that is commensurate to the number of students who participate in instruction required to comply to Title VI.

9. Formulate a timetable for implementation of the plan.

10. Develop reporting procedures and dates for reporting when requested by O.C.R.

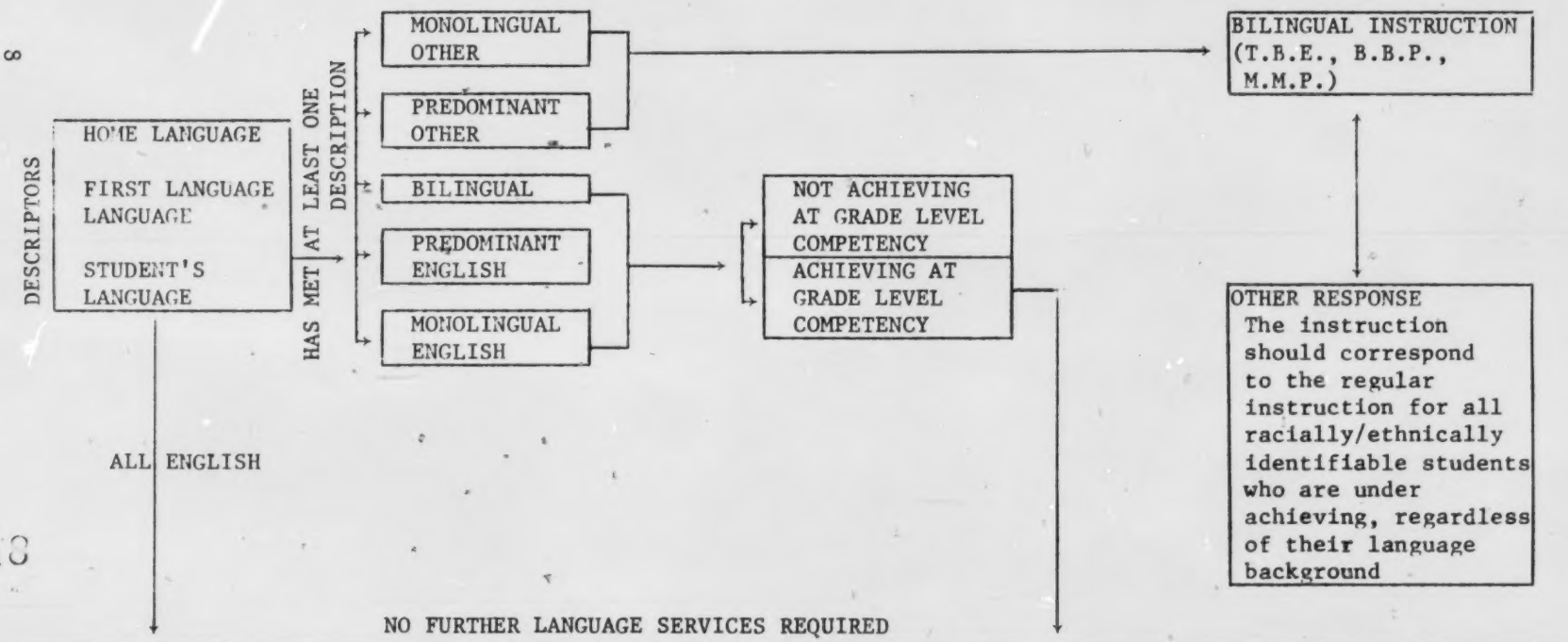
ELEMENTARY GRADES

STEP 1	STEP 2	STEP 3	STEP 4
IDENTIFICATION	ASSESSMENT	DIAGNOSIS	PRESCRIPTION
Students whose "primary" or "home" language is other than English	Linguistic proficiency of students whose "primary" or "home" language is other than English	Achievement levels of students whose "primary" or "home" language is other than English	Prescribed programs for students whose "primary" or "home" language is other than English

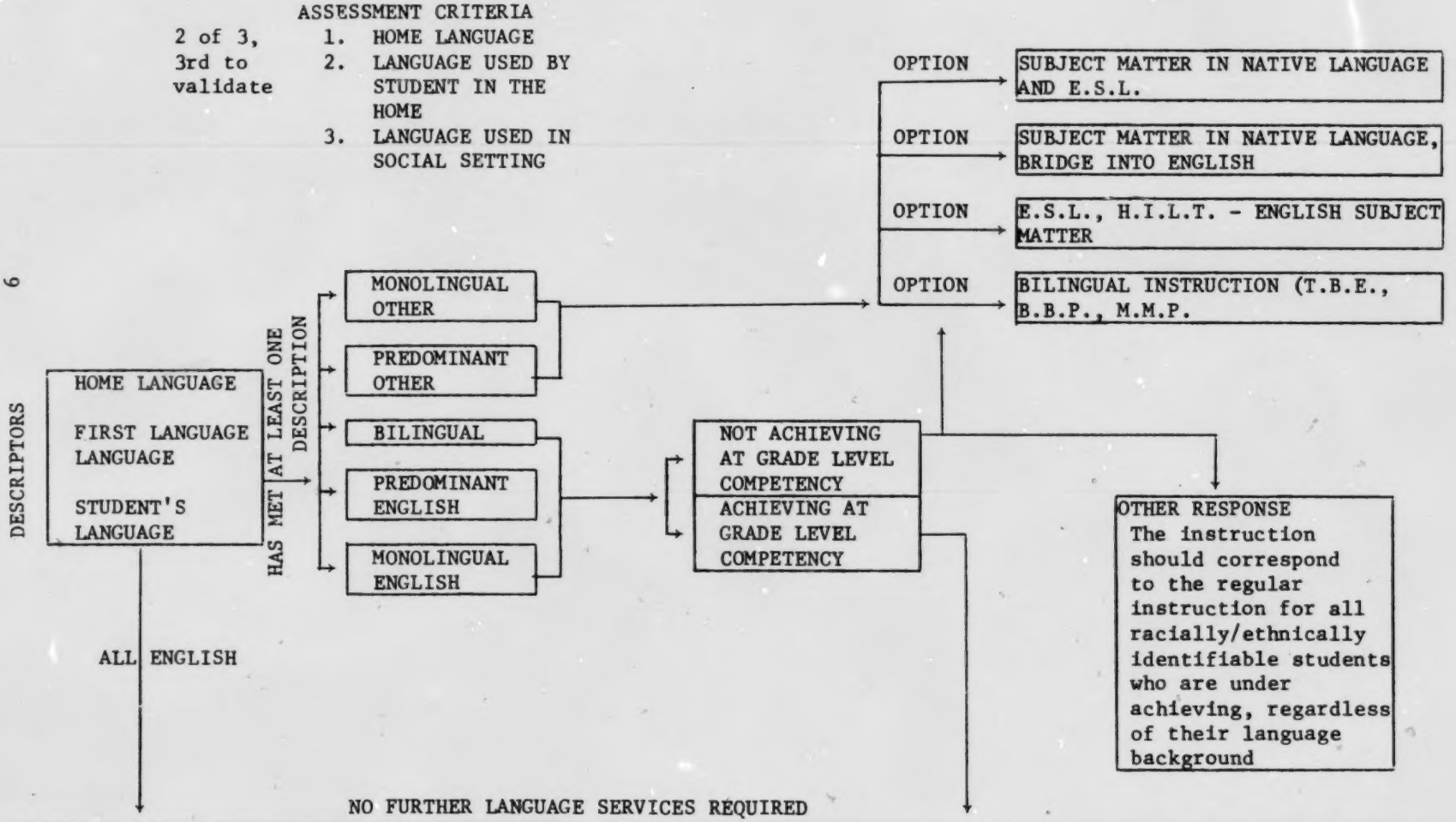
ASSESSMENT CRITERIA

2 of 3, 3rd to validate

1. HOME LANGUAGE
2. LANGUAGE USED BY STUDENT IN THE HOME
3. LANGUAGE USED IN SOCIAL SETTING


DESCRIPTORS
HOME LANGUAGE
FIRST LANGUAGE LANGUAGE
STUDENT'S LANGUAGE
HAS MET AT LEAST ONE DESCRIPTION
MONOLINGUAL OTHER
PREDOMINANT OTHER
BILINGUAL
PREDOMINANT ENGLISH
MONOLINGUAL ENGLISH
NOT ACHIEVING AT GRADE LEVEL COMPETENCY
ACHIEVING AT GRADE LEVEL COMPETENCY
BILINGUAL INSTRUCTION (T.B.E., B.B.P., M.M.P.)
OTHER RESPONSE
The instruction should correspond to the regular instruction for all racially/ethnically identifiable students who are under achieving, regardless of their language background
ALL ENGLISH
NO FURTHER LANGUAGE SERVICES REQUIRED

STEP 1	STEP 2	STEP 3	STEP 4
IDENTIFICATION	ASSESSMENT	DIAGNOSIS	PRESCRIPTION
Student whose "primary" or "home" language is other than English →	Linguistic proficiency of students whose "primary" or "home" language is other than English →	Achievement levels of students whose "primary" or "home" language is other than English →	Prescribed programs for students whose "primary" or "home" language is other than English


ASSESSMENT CRITERIA
2 of 3, 3rd to validate
1. HOME LANGUAGE
2. LANGUAGE USED BY STUDENT IN THE HOME
3. LANGUAGE USED IN SOCIAL SETTING
DESCRIPTORS
HOME LANGUAGE
FIRST LANGUAGE LANGUAGE
STUDENT'S LANGUAGE
HAS MET AT LEAST ONE DESCRIPTION
MONOLINGUAL OTHER
PREDOMINANT OTHER
BILINGUAL
PREDOMINANT ENGLISH
MONOLINGUAL ENGLISH
ALL ENGLISH
NOT ACHIEVING AT GRADE LEVEL COMPETENCY
ACHIEVING AT GRADE LEVEL COMPETENCY
OPTION
SUBJECT MATTER IN NATIVE LANGUAGE AND E.S.L.
OPTION
SUBJECT MATTER IN NATIVE LANGUAGE, BRIDGE INTO ENGLISH
OPTION
E.S.L., H.I.L.T. - ENGLISH SUBJECT MATTER
OPTION
BILINGUAL INSTRUCTION (T.B.E., B.B.P., M.M.P.
OTHER RESPONSE
The instruction should correspond to the regular instruction for all racially/ethnically identifiable students who are under achieving, regardless of their language background
NO FURTHER LANGUAGE SERVICES REQUIRED

IV. CHECKLIST

Item to be considered:	Information on Page(s):
A. The development of a district policy statement	4
B. The implementation of an awareness program for district personnel	4
C. The implementation of an awareness program for the community	5
D. The development of an effective plan to include the 4 basic requirements:	6
1. Identification: The systematic process of identifying students whose "primary" or "home" language is other than English.	5
2. Assessment: The systematic process for assessing the degree of linguistic function of students with a "primary" or "home" language other than English. The subsequent placement of these students in the following categories:	5,6
a. Monolingual Other b. Predominant Other c. Bilingual d. Predominant English e. Monolingual English	
3. Diagnosis: The systematic process of determining the level of achievement of students with a "primary" or "home" language other than English.	6
4. Prescription: The programmatic placement of students with a "primary" or "home" language other than English.	7

V. RESOURCES

The following compilation of resources is intended to provide you with a wide scope of references. It is by no means all-inclusive. The assessment instruments referred to and the publishing companies listed are to be considered as examples (not necessarily endorsed by this Task Force) which may be used as is or adapted.

A. Arizona Department of Education: The following services are available through the Office of Bilingual Education:

1. Technical assistance upon request relating to this document;

2. Identification of resources for assistance;

3. Information and materials relating to testing instruments and procedures;

4. Information for staff development.

B. General Assistance Centers - These are funded by H.E.W. on a competitive basis, to provide school districts with technical assistance to comply with the Civil Rights Act of 1964. The G.A.C. type B centers, also known as "Lau Centers," are especially designed to assist directors in complying with Title VI as it pertains to students who speak a language other than English. This assistance includes the guidance in developing comprehensive Educational Plans. The G.A.C. type A center is intended to assist districts in general desegregation activities.

1. CACTI (Cultural Awareness Center Trilingual Institute), G.A.C. type B, located at the University of New Mexico Campus in Albuquerque serves New Mexico, Arizona, and Nevada, and has established four satellite offices in Las Vegas, Nogales, Phoenix, and Window Rock, with a fifth satellite in the planning for Tucson, Arizona. CACTI's services include technical assistance for needs assessment, community relations, administrative modifications, curriculum development and revision, and staff training. Workshops and training sessions are designed to meet the requests of individual districts such as cultural awareness, English as a second language, bilingual methodologies and techniques, comparative linguistic analysis, teacher/teacher aide roles, and intensive Spanish language training for monolingual English speakers. For information and/or services, contact: Project CACTI, Ray Rodriguez, Director, Onate Hall #223, College of Education, University of New Mexico, Albuquerque, New Mexico 87131, Phone - (505) 277-3062.

2. Project STRIDE (Service, Training and Research in Desegregated Education), G.A.C. type A, is located at the Far West Laboratory for Educational Research in San Francisco and serves school districts in California, Arizona, and Nevada as they reduce or eliminate the effects of discrimination and isolation based on race, ethnicity or sex. STRIDE's services include on-site training

packages and an information center along with direct contact and communication with district personnel to individualize services to meet district needs. Resources, especially in the area of cultural pluralism, using staff and consultants for local district workshops, are available upon request. Some samples of workshop subjects are Pluralistic Education - An Integrative Approach to Teaching; Educational Pluralism; Administrative Perspectives; Sex Role Diversity in Pluralistic Education, Community Relations - A Togetherness Task; Developing A Culturally Pluralistic Curriculum. Films, publications, and extended training packages are also available to help meet the unique needs of each district. For service and/or information contact: Project STRIDE, 1855 Folsum Street, San Francisco, California 94103, phone: (415) 565-3080.

C. General Organizational Resources:

Resource	Type of Assistance
1. Arizona Association of Mexican American Educators Al Jauregui Veda Frank School 8409 S. 56th Street Guadalupe, AZ 85283 Manuel Munguia Safford Junior High 300 South 5th Avenue Tucson, AZ 85701	Materials, Speakers, Position Papers
2. Arizona Bilingual Council 1212 East Hampton Tucson, AZ 85717 Barbara Sosna, Contact	Materials, Organization Consulting
3. Center for Applied Linguistics Div. of Bilingual/Bicultural Educ. 1611 North Kent Street Arlington, VA 22209	Materials

D. Native American Resources

1. Native American Materials Development Center 407 Rio Grande Blvd., N.W. Albuquerque, NM 87104 Gloria Emerson (505) 242-5222	Materials, Consulting, Materials Development, Public Relations Through Dine Binaaltsoos

2. Navajo Division of Education — Materials, Consulting
   The Navajo Nation
   Window Rock, AZ 86515
   Dillon Platero, Director

3. Native American Career Education — Materials
   Far West Laboratory
   1855 Folsom Street
   San Francisco, CA 94103
   Diane Studebaker

4. Rough Rock Demonstration School — Materials (Navajo)
   Rough Rock, Arizona

5. Blanding Indian Education Curriculum Center — Materials (Navajo) Films
   Blanding, Utah

6. Language Arts Branch — Materials
   Indian Education Resource Center
   Box 1788
   Albuquerque, NM 87103

7. Rock Point Community School — Materials, Data on Bilingualism
   Chinle, Arizona
   Wayne Holmes

8. Alaska Native Language Center — Materials
   University of Alaska
   Fairbanks, AK 99701

9. Bilingual Education Resource Center — Materials
   Nome Agency BIA
   Nome, AK 99762

E. Resources Available Through The National Network for Bilingual Education ESEA Title VII

The National Network for Bilingual Education was created to facilitate the delivery of services to programs of Bilingual Education. The major role of the centers is to coordinate planning, communications, and assistance for local educational agencies, institutions of higher education, and state educational agencies.

1. Resource Centers

Resource centers provide direct services on effective practices and procedures to local educational agencies and institutions of higher learning to train classroom personnel in the use of Bilingual Instructional Materials and Field Test Materials from the development centers.

Two Resource Centers serve Arizona:

Bilingual Resource Center
Institute for Cultural Pluralism
San Diego State University
5544 1/2 Hardy Avenue
San Diego, CA 92182

Contact: M. Reyes Mazón
Rafael Fernandez

Bilingual Education Resource Center
University of New Mexico
College of Education
Albuquerque, NM 87131
(505) 277-3551

Contact: Jose A. Gandert, Jr.

2. Materials Development Centers

Materials development centers develop instructional, teaching, training, and testing materials in the languages and at the grade levels of the bilingual target groups being served.

Santa Cruz Bilingual Materials Development Center
University of Arizona at Tucson
Box 601, College of Education
1201 East Speedway
Tucson, AZ 85721
(602) 884-1618, 1461, or 3724

Contact: Dr. Elizabeth Antley
Responsibilities:
Teacher training materials
Transportable packets, grades K-3/Spanish

Multilingual/Multicultural Materials Development Center
California State Polytechnic Univ.
Office of Teacher Preparation
3801 West Temple Avenue
Pomona, CA 91768
(714) 598-4984

Contact: Roberto Ortiz
Responsibilities:
Social Studies - films and filmstrips, grades 7,8,9/ Spanish teacher's Manuals, grades K-12/Spanish Language Assessment Instruments to determine level of teacher's proficiency, grades K-12/ Spanish

Spanish Curricula Development Center
Dade County Public Schools
7100 N.W. Seventeenth Avenue
Miami, FL 33147

Contact: Ralph F. Robinett
Responsibilities:
Language Arts, Social Studies, Fine Arts, Spanish as a Second Language, Science Math. Teacher guides include Puerto Rican/Mexican American/Cuban/ and Multiethnic editions. Grades 1-3 completed, grade 4 in progress, grades 5-6 projected. Health-Multiethnic teacher guides only grades 4-6/Spanish

Native American Materials
Development Center
Ramah Navajo School Board, Inc.
Box 248
Ramah, NM 87321
(505) 783-5801

Contact: Gloria Emerson
Responsibilities:
Subject areas as needed grades K-3/Native American Languages

Bilingual Materials Development
Center
Ft. Worth Independent School
District
6000 Camp Bowie Blvd., Suite 390
Ft. Worth, TX 76116
(817) 731-0736

Contact: Carlos E. Perez
Responsibilities:
Fine Arts, Spanish as a Second Language, Language Arts, Social Studies, Science, Math. Grades 6-9/Spanish. English as a Second Language, grades 7-8/Spanish

3. Dissemination and Assessment Centers

The dissemination and assessment centers evaluate, publish, and disseminate the materials developed; in addition, they provide information services to local educational agencies, institutions of higher education, state educational agencies, and the other network centers.

Dissemination and Assessment Center for Bilingual Education

Dissemination: Education Service Center, Region XIII
6504 Tracor Lane
Austin, TX 78721
(512) 926-6129 or 8080
Contact: Juan D. Solis or Ernest Perez

Assessment: University of Texas at San Antonio
Hemisfair Plaza, Building 204
San Antonio, TX 78285
(512) 222-9151
Contact: Juan D. Solis or Ernesto Bernal

The above centers process materials produced by the five Materials Development Centers included in this listing.

F. Testing and Evaluation Resources

1. Oral Language Tests for Bilingual Students: An Evaluation of Language Dominance and Proficiency Instruments, $4.75 with a ten percent discount on five or more. Order from Jack McConnell, Director, Office of Marketing and Dissemination, Northwest Regional Educational Laboratory, 710 W. Second Avenue, Portland, Oregon 97204.

The book published by the Northwest Regional Educational Laboratory gives a general description of each test that includes scoring procedures, the time required to administer it, and comments on its

validity, reliability, and field trials. Each instrument is rated from good to poor on how well it tests the skills it purports to measure, how appropriate the content is for the intended test takers, how easy it is to administer, and how it measures up in technical excellence.

After a national search, Northwest Lab's Bilingual Education Center turned up 50 tests used with bilingual students. "Of the 50 tests identified, 24 met the criterion of simultaneously assessing a child's oral language usage in two or more languages, and were subsequently evaluated," explain the researchers. "General kinds of language tests such as the Peabody Picture Vocabulary Test and the Pimsleur Spanish Proficiency Tests, which assess performance in only one language, were not selected for evaluation."

Sixteen of the tests included in the book are commercially available, six are in the field test stage, and two are experimental measures. Of the 24 tests, only three can be used for languages other than English. Two of those are for Portuguese and English, and one may be used to assess Mandarin, Cantonese, Tagalog, and Ilokano in addition to Spanish and English. Most are appropriate only for primary school children, although four have been used with high school students.

2. Language Assessment Instruments

Publishing Company	Name of Instrument
Chess and Associates, Inc. Educational Systems & Services P. O. Box 833 San Bernardino, CA 92401	"Basic Inventory of Natural Language" (English/Spanish)
Harcourt Brace Jovanovich, Inc. California Office Test Department Polk & Geary Streets San Francisco, CA 94109	"Bilingual Syntax Measure" (English/Spanish)
Guidance Testing Associates 6516 Shirley Avenue Austin, TX 78752	"Comprehension of Oral Language Level I" (English/Spanish)
National Educational Laboratory Publishers, Inc. P. O. Box 1003 Austin, TX 78767	"Del Rio Language Screening Test" (English/Spanish)
Academic Therapy Publications 1539 Fourth Street San Rafael, CA 94901	"Dos Amigos Verbal Language Scales" (English/Spanish)

Institute for Cultural Pluralism School of Education San Diego State University San Diego, CA 92182	"Gloria and David Oral Language Assessment" (English/Spanish)
Learning Concepts 2501 North Lamar Boulevard Austin, TX 78705	"James Language Dominance Test" (English/Spanish)
Fernando Canedo, David Gustafson, Americo Lopez-Rodriguez Bilingual/Bicultural Education Program California State University Fullerton, CA 92634	"Language Dominance Criteria" (English/Spanish)
The Allington Corporation 801 North Pitt Street #701 Alexandria, VA 22314	"Language Facility Test" (English/Spanish)
Primary Acquisition of Languages: A Dual Language Program The El Paso Public Schools Department of Curriculum and Staff Development El Paso, Texas	"Oral Language Dominance Measure (PAL)" (English/Spanish)
D. A. Lewis Associates, Inc. 7801 Old Branch Avenue Suite 201 Clinton, MD 20735	"Oral Language Evaluation" (OLE) (English/Spanish)
Texas Testing Services 401 Poenisch Street Corpus Christi, TX 78412	"The Pictorial Test of Bilingualism and Language Dominance" (English/Spanish)
Learning Concepts 1501 North Lamar Boulevard Austin, TX 78412	"Screening Test for Auditory Comprehension of Language" (English/Spanish)
Mr. R. V. Skoczylas 7649 Santa Inez Court Gilroy, CA 95020	"Home Bilingual Usage Estimate" (English/Spanish)
Moreno Education Company 7050 Belle Glade Lane San Diego, CA 92119	"Moreno Quick Language Assessment Inventory" (English/Spanish)

APPENDICES

A. H.E.W. Memorandum of May 25, 1970

This memorandum was sent to school districts with more than 5% national origin-minority students. The purpose of the memorandum was to clarify H.E.W. policy on compliance with Title VI of the Civil Rights Act of 1964 as it relates to limited or non-English speaking national origin-minority group students. It confirmed the responsibility of school districts to take affirmative action to rectify the language deficiencies of those students in such a fashion that they might enjoy equal access to the educational opportunities provided to all students by the school district. Section (1) directs itself to this specific issue.

B. H.E.W. Memorandum of December 2, 1974

This memorandum establishes the Department of Health, Education and Welfare position on Bilingual Education.

C. Task Force Findings Specifying Remedies Available for Eliminating Past Educational Practices Ruled Unlawful Under Lau vs. Nichols.

This document, known as the "Lau Remedies" was developed by a Task Force of H.E.W. to be used as a guideline by H.E.W. in the evaluation of comprehensive educational plans. (A comprehensive educational plan delineates the manner in which a district found in non-compliance with Title VI of the Civil Rights Act proposes to come into compliance.)

D. H.E.W. Survey Form 101

This School System Summary Report includes data on pupils whose primary or home language is other than English and enrollment is bilingual or E.S.L. programs. (This is a copy of a portion of the form which will be required of all districts by O.C.R.)

E. Language Surveys

Language surveys which may serve as examples for districts in the development of their own assessment criteria have been included here.

1. Home language preference - English/Spanish

2. Home language preference - English/Navajo

3. Student language preference

4. Teacher observation of student language preference

May 25, 1970

MEMORANDUM

TO : School Districts With More Than Five Percent National Origin-Minority Group Children

FROM : J. Stanley Pottinger
Director, Office for Civil Rights

SUBJECT : Identification of Discrimination and Denial of Services on the Basis of National Origin

Title VI of the Civil Rights Act of 1964, and the Departmental Regulation (45 CFR Part 80) promulgated thereunder, require that there be no discrimination on the basis of race, color or national origin in the operation of any federally assisted programs.

Title VI compliance reviews conducted in school districts with large Spanish-surnamed student populations by the Office for Civil Rights have revealed a number of common practices which have the effect of denying equality of educational opportunity to Spanish-surnamed pupils. Similar practices which have the effect of discrimination on the basis of national origin exist in other locations with respect to disadvantaged pupils from other national origin-minority groups, for example, Chinese or Portuguese.

The purpose of this memorandum is to clarify D/HEW policy on issues concerning the responsibility of school districts to provide equal educational opportunity to national origin-minority group children deficient in English language skills. The following are some of the major areas of concern that relate to compliance with Title VI:

(1) Where inability to speak and understand the English

language excludes national origin-minority group children from effective participation in the educational program offered by a school district, the district must take affirmative steps to rectify the language deficiency in order to open its instructional program to these students.

(2) School districts must not assign national origin-minority group students to classes for the mentally retarded on the basis of criteria which essentially measure or evaluate English language skills; nor may school districts deny national origin-minority group children access to college preparatory courses on a basis directly related to the failure of the school system to inculcate English language skills.

(3) Any ability grouping or tracking system employed by the school system to deal with the special language skill needs of national origin-minority group children must be designed to meet such language skill needs as soon as possible and must not operate as an educational dead-end or permanent track.

(4) School districts have the responsibility to adequately notify national origin-minority group parents of school activities which are called to the attention of other parents. Such notice in order to be adequate may have to be provided in a language other than English.

School districts should examine current practices which exist in their districts in order to assess compliance with the matters set forth in this memorandum. A school district which determines that compliance problems currently exist in that district should immediately communicate in writing with the Office for Civil Rights and indicate what steps are being taken to remedy the situation. Where compliance questions arise as to the sufficiency of programs designed to meet the language skill needs of national origin-minority group children already operating in a particular area, full information regarding such programs should be provided. In the area of special language assistance, the scope of the program and the process for identifying need and the extent to which the need is fulfilled should be set forth.

School districts which receive this memorandum will be contacted shortly regarding the availability of technical assistance and will be provided with any additional information that may be needed to assist districts in achieving compliance with the law and equal educational opportunity for all children. Effective as of this date the aforementioned areas of concern will be regarded by regional Office for Civil Rights personnel as a part of their compliance responsibilities.

MEMORANDUM

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF THE SECRETARY
DATE: Dec. 2, 1974

TO: Assistant Secretary for Education

FROM: The Under Secretary

SUBJECT: Departmental Position on Bilingual Education

At the ASE Management Conference on October 1, 1974, I directed that OE promulgate a clear, detailed set of guidelines and clearly bring to the attention of all concerned OE employees and grantees the Federal policy for the Bilingual Education program. The basis for these guidelines was to be my testimony and that of the then Acting Director of Civil Rights before Congress in March of this year, following the Supreme Court decision on the case of Lau v. Nichols. The purpose of this memorandum is to provide OE additional guidance to facilitate preparation of the guidelines.

In its simplest terms, the Supreme Court in Lau affirmed the responsiblity of Local Education Agencies (LEA's) to comply with Title VI of the 1964 Civil Rights Act, and HEW regulations and guidelines issued pursuant thereto. These guidelines and regulations require that school districts take affirmative action to rectify the language deficiencies of children of limited or non-English speaking ability in such a fashion that they may enjoy equal access to the educational opportunities provided to all other students by the school system. In its decision, the Court made clear that it is the responsibility of LEA's to develop appropriate affirmative action programs for students of limited or non-English speaking ability and that the goal of such programs is to ensure equal educational opportunity. The Federal responsibility is to ensure, under Title VI, that such programs are developed and implemented -- and, to that end, the Office of Civil Rights has markedly expanded its FY 1975 compliance program in this area.

Beyond the Federal responsibility for Civil Rights compliance/enforcement, the Administration and Congress have assumed a Federal capacity building role in the area of bilingual education. This role includes such related activities as research,

testing, and dissemination of educational approaches, models and techniques for teaching students with special education needs, curriculum development, teacher training, and technical assistance to States and LEA's. While these activities are obviously not exclusively a Federal responsibility, and should not be, the ability of the Federal government to mount such efforts with the needs of the entire nation in mind makes it an obvious and substantial participant in such endeavors. It should be reiterated, however, that this Federal role is one of providing assistance to States and LEA's in building their capacities to address effectively the needs of limited and non-English speaking youngsters. It is not a service role which would supplant the historic State and local responsibility for funding and administering this country's education system.

The goal of this Federal capacity building effort, as is the case in Federal civil rights compliance/enforcement activities, is the provision of equal educational opportunities for all youngsters. As I have testified, the Federal government should clearly not insist, as some would seem to propose, that special language programs attempt to support the more extensive cultural interests of the various ethnic minorities in American society. The cultural pluralism of American society is one of its greatest assets, but such pluralism is a private matter of local choice, and not a proper responsibility of the Federal government. This interpretation of the goal of the Federal bilingual education program was confirmed by the Conference Report on H.B. 69 (now P.L. 93-380) which states on page 148, "The House recedes to the Senate on the definition of a 'bilingual education program' with an amendment to emphasize the conferees' concern that the new definition not be misinterpreted to indicate that an ultimate goal of the program is the establishment of a 'bilingual society'."

A frequent misunderstanding which seems to have provoked unnecessary and fruitless debate over bilingual policy is the failure to distinguish the goals of bilingual/bicultural programs from the means of achieving them. P.L. 93-380 emphasizes strongly that "a primary means by which a child learns is through the use of such child's language and cultural heritage...and that children of limited English-speaking ability benefit through the fullest utilization of multiple language and cultural resources." But the law makes it equally clear that the ultimate goal of Federal bilingual education programs is "to demonstrate effective ways of providing, for children of limited English-speaking ability, instruction designed to enable them, while using their native language, to achieve competence in the English language."

As stated in my testimony, we would obviously like to be able to specify the exact nature of appropriate programs to provide youngsters of limited or non-English speaking ability equal access to the educational opportunities provided all other students by the school system. However, given the current state of the art in bilingual education, this specificity is neither possible nor desirable. Programs to provide competency in English for limited or non-English speaking children vary widely. They can range from special language tutoring, to separate English language instruction classes (and approaches vary widely within this category), to bilingual education, to complete bilingual/bicultural education. Intuitively, programs -- particularly for younger children -- with a strong bilingual/bicultural component would seem to be preferable from both an educational effectiveness and equal educational opportunity standpoint to those which may impart some English speaking competence but deprive the limited or non-English speaking youngster of the opportunity to advance through the school system at a grade level commensurate with his or her age, while simultaneously failing to maintain in the youngster a positive concept of his or her cultural heritage. The particular approach and content of a model necessary to achieve this result, however, has not been identified. We simply do not have firm evidence to embrace any one model to the exclusion of others.

The variations in concentration of limited or non-English speaking children in a district, the number of different languages involved, the ages of the youngsters, the degree of native language competency, and the degree of English language competency suggest that different approaches may be appropriate in different situations. In particular, the approach necessary to enable youngsters of limited or non-English speaking ability presently in the school system to attain competency in English at a grade level commensurate with their age may vary widely.

The difficulties in specifying a single method for providing equal educational opportunity to limited or non-English speaking youngsters were clearly recognized by the Congress in Title VII of P.L. 93-380. I refer specifically to Section 703, "Definitions; Regulations" which reads in part:

> The term 'program of bilingual education' means a program of instruction, designed for children of limited English speaking ability in elementary and secondary schools, in which, with respect to the years of study to which such program is applicable.

"(i) there is instruction given in, and study of, English and to the extent necessary (emphasis added) to allow a child to progress effectively through the educational system, the native language of the children of limited English speaking ability, and such instruction is given with appreciation for the cultural heritage of such children, and, with respect to elementary school instruction, such instruction shall, to the extent necessary (emphasis added), be in all courses or subjects of study which will allow a child to progress effectively through the educational system;"

This same section further specifies that "in no event shall the program be designed for the purpose of teaching a foreign language to English speaking children." It is clearly the intent of Congress that the goal of Federally-funded capacity building programs in bilingual education be to assist children of limited or non-English speaking ability to gain competency in English so that they may enjoy equal educational opportunity -- and not to require cultural pluralism.

In addition to the above definitions, Section 703 specifies that:

"...children enrolled in a program of bilingual education shall, if graded classes are used, be placed, to the extent practicable (emphasis added), in classes with children of approximately the same age and level of educational attainment. If children of significantly varying ages or levels of educational attainment are placed in the same class, the program of bilingual education shall seek to insure that each child is provided with instruction which is appropriate for his or her level of educational attainment."

This requirement is reinforced by the stipulation that applications for bilingual funds must be developed in consultation with a representative advisory committee, and that, where appropriate, such committees include representatives of secondary school students to be served.

Given the above, it should be possible for OE to develop the guidelines for implementation of the Bilingual Education Program which I requested on October 1, 1974. Further, regulations and funding criteria for applications for bilingual demonstration projects should be consistent with those guidelines. To reiterate, both the guidelines and regulations should emphasize that the Federal capacity building role, as distinguished from the Federal

civil rights compliance/enforcement responsibilities, is to assist SEAs and LEAs in developing effective programs to provide equal educational opportunities to all their limited or non-English speaking students. No single program is appropriate for the individual circumstances of all LEAs subject to the requirements of Title VI of the 1964 Civil Rights Act as reinforced by Lau -- and none should be specified.

I look forward to reviewing the guidelines, regulations and funding criteria, and my staff will continue to closely monitor progress in implementing Title VII of P.L. 93-380 through the OPS system, as well as other appropriate mechanisms.

Frank Carlucci

Prepared by: DOOLIN, EP, x51878, 11/22/74

TASK FORCE FINDINGS SPECIFYING REMEDIES AVAILABLE FOR ELIMINATING PAST EDUCATIONAL PRACTICES RULED UNLAWFUL UNDER LAU v. NICHOLS

SUMMER 1975a

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The immediate implementation of the requirements listed within does not apply to those school districts which have had a substantial number of recent school-age Indo-Chinese immigrants whose primary or home language is other than English in the 1975-76 school year.

I. Identification of Student's Primary or Home Language

The first step to be included in a plan submitted by a district found to be in noncompliance with Title VI under Lau is the method by which the district will identify the student's primary or home language. A student's primary or home language, for the purpose of this report, is other than English if it meets at least one of the following descriptions:

A. The student's first acquired language is other than English.

B. The language most often spoken by the student is other than English.

C. The language most often spoken in the student's home is other than English, regardless of the language spoken by the student.

These assessments (A-C, above) must be made by persons who can speak and understand the necessary language(s). Then the district must assess the degree of linguistic function or ability of the student(s) so as to place the student(s) in one of the following categories by language.

1. Monolingual speaker of a language other than English (speaks a language other than English exclusively).

2. Predominantly speaks a language other than English (speaks mostly a language other than English, but speaks some English).

3. Bilingual (speaks both a language other than English and English with equal ease).

4. Predominantly speaks English (speaks mostly English, but some of a language other than English).

5. Monolingual speaker of English (speaks English exclusively).

In the event that the student is multilingual (is functional in more than two languages in addition to English), such assessment must be made in all the necessary languages.

In order to make the aforementioned assessments the district must, at a minimum, determine the language most often spoken in the student's home, regardless of the language spoken by the student, the language most often spoken by the student in the home, and the language spoken by the student in the social setting (by observation).

These assessments must be made by persons who can speak and understand the necessary language(s). An example of the latter would be to determine, by observation, the language used by the student to

communicate with peers between classes or in informal situations. These assessments must cross-validate one another (Example: student speaks Spanish at home and Spanish with classmates at lunch). Observers must estimate the frequency of use of each language spoken by the student in these situations.

In the event that the language determinations conflict (Example: student speaks Spanish at home, but English with classmates at lunch), an additional method must be employed by the district to make such a determination (for example the district may wish to employ a test of language dominance as a third criterion). In other words, two of the three criteria will cross-validate or the majority of criteria will cross-validate (Yield the same language).

Due to staff limitations and priorities, we will require a plan under Lau during this initial stage of investigation when the district has 20 or more students of the same language group identified as having a primary or home language other than English. However, a district does have an obligation to serve any student whose primary or home language is other than English.

II. Diagnostic/Prescriptive Approach.

The second part of a plan must describe the diagnostic/prescriptive measures to be used to identify the nature and extent of each student's educational needs and then prescribe an educational program utilizing the most effective teaching style to satisfy the diagnosed educational needs. The determination of which teaching style(s) are to be used will be based on a careful review of both the cognitive and affective domains and should include an assessment of the responsiveness of students to different types of cognitive learning styles and incentive motivational styles -- e.g., competitive v. cooperative learning patterns. The diagnostic measures must include diagnoses of problems related to areas or subjects required of other students in the school program and prescriptive measures must serve to bring the linguistically/culturally different student(s) to the educational performance level that is expected by the Local Education Agency (LEA) and the State Department of Education for non-minority students. A program designed for students of limited English-speaking ability must not be operated in a manner so as to solely satisfy a set of objectives divorced or isolated from those educational objectives established for students in the regular school program.

III. Educational Program Selection.

In the third step the district must implement the appropriate type(s) of educational program(s) listed in this Section (III, A-E) dependent upon the degree of linguistic proficiency of the students in question. If none seem applicable, check with your Lau coordinator for further action.

A. In the case of the monolingual speaker of a language other than English (speaks the language other than English exclusively).

1. At the Elementary and Intermediate Levels:

Any one or combination of the following programs is acceptable.

a. Transitional Bilingual Education Program (TBE).

b. Bilingual/Bicultural Program.

c. Multilingual/Multicultural Program (see definitions, page 9).

In the case of a Transitional Bilingual Education Program, the district must provide predictive data which show that such student(s) are ready to make the transition into English and will succeed educationally in content areas and in the educational program(s) in which he/she is to be placed. This is necessary so the district will not prematurely place the linguistically/culturally different student who is not ready to participate effectively in an English language curriculum in the regular school program (conducted exclusively in English).

Because an English as a Second Language program does not consider the affective nor cognitive development of students in this category, and time and maturation variables are different here than for students at the secondary level, an English as a Second Language program <u>is not</u> appropriate.

2. At the Secondary Level:

a. Option 1 - Such students may receive instruction in subject matter (example: math, science) in the native language(s) and receive English as a Second Language (ESL) as a class component (see definitions, page 9).

b. Option 2 - Such students may receive required and elective subject matter (examples: math, science, industrial arts) in the native language(s) and bridge into English while combining English with the native language as appropriate (learn English as a first language, in a natural setting).

c. Option 3 - Such students may receive ESL of High Intensive Language Training (HILT), (see definition, page 9) in English until they are fully functional in English (can operate equally successfully in school in English), then bridge into the school program for all other students.

d. A district may wish to utilize a TBE, Bilingual/Bicultural or Multilingual/Multicultural program in lieu of the three options presented in this section (III.A.2.). This is permissible. However, if the necessary prerequisite skills in

the native language(s) has not been taught to these students, some form of compensatory education in the native language must be provided.

e. In any case, students in this category (III.A.2.) must receive such instruction in a manner that is expeditiously carried out so that the students in question will be able to participate to the greatest extent possible in the regular school program as easily as possible. At no time can a program be selected in this category (III.A.2.) to place the students in situations where the method of instruction will result in a substantial delay in providing these students with the necessary English language skills needed by or required of other students at the time of graduation.

NOTE: You will generally find that students in this category <u>are</u> recent immigrants.

B. In the case of the predominant speaker of a language other than English (speaks mostly a language other than English, but speaks some English):

1. At the Elementary Level:

Any one or combination of the following programs is acceptable.

a. Transitional Bilingual Education Program (TBE).

b. Bilingual/Bicultural Program.

c. Multilingual/Multicultural Program.

In the case of a Transitional Bilingual Education Program, the district must provide predictive data which shows that such students are ready to make the transition into English and will educationally succeed in content areas and the educational programs in which they are to be placed. Since an English as a Second Language program does not consider the affective nor cognitive development of the students in this category, and the time and maturation variables are different here than for students at the secondary level, an ESL program <u>is not</u> appropriate.

2. At the Intermediate and High School Levels:

The district must provide data relative to the student's academic achievement and identify those students who have been in the school system for less than a year. If the students who have been in the school system for less than a year are achieving at grade level or better, the district is not required to provide additional educational programs. If, however, the students who have been in the school system

for a year or more are underachieving (not achieving at grade level), (see definitions, page 10) the district must submit a plan to remedy the situation. This may include smaller class sizes, enrichment of materials, etc. In either this case or the case of students who are underachieving and have been in the school system for less than a year, the remedy must include any one or combination of the following: 1) an ESL, 2) a TBE, 3) a Bilingual/Bicultural Program, 4) a Multilingual/Multicultural Program. But such students may not be placed in situations where all instruction is conducted in the native language as may be prescribed for the monolingual speaker of a language other than English, if the necessary prerequisite skills in the native language have not been taught. In this case some form of compensatory education in the native language must be provided.

NOTE: You will generally find that students in this category are not recent immigrants.

C. In the case of the bilingual speaker (speaks both the language other than English and English with equal ease) the district must provide data relative to the student's academic achievement.

In this case the treatment is the same at the elementary, intermediate, and secondary levels. Treatment differs only in terms of the underachievers in comparison to those students achieving at grade level or better.

1. For the students in this category who are underachieving, treat them as you would a regular "grouping practice" case (see ESAA Manual).

2. For the students in this category who are achieving at grade level or better, the district is not required to provide additional educational programs.

D. In the case of the predominant speaker of English (speaks mostly English, but some of a language other than English), treatment for these students is the same as III, C. above.

E. In the case of the monolingual speaker of English (speaks English exclusively), treat the same as III, C. above.

NOTE: ESL is a necessary component of all the aforementioned programs. However, an ESL program may not be sufficient as the only program operated by a district to respond to the educational needs of all the types of students described in this document.

IV. Required and Elective Courses.

In the fourth step of such plan the district must show that the required and elective courses are not designed to have a discriminatory effect.

A. Required Courses (legal precedent - Portales).

Required course (example: American History) must not be designed to exclude pertinent minority developments which have contributed to or influenced such subjects.

B. Elective Courses and Co-curricular Activities.

Where a district has been found to be out of compliance and operates racially/ethnically identifiable elective courses or co-curricular activities, the plan must address this area by either educationally justifying the racial/ethnic identifiability of these courses or activities, or eliminating them or guaranteeing that these courses or co-curricular activities will not remain racially/ethnically identifiable.

There is a violation of Title VI if a district has two or more classes in the same subject; e.g., "same curriculum," and those classes are racially/ethnically identifiable. There is also a prima facie case of discrimination if elective courses are racially/ethnically identifiable. Past that point a school must prove that it has done nothing to segregate those classes.

Schools must develop strong incentives and encouragement for minority students to enroll in electives where minorities have not traditionally enrolled. In this regard, couselors, principals, and teachers have a most important role. If an analysis of counseling practices demonstrates that all minorities are being advised in a manner which results in their being disproportionately channeled into certain subject areas or courses, this is violative of Title VI. The school district must see that all of its students are encouraged to fully participate and take advantage of all educational benefits.

Close monitoring is necessary to evaluate to what degree minorities are, in essence, being discouraged from taking certain electives and are being encouraged to take other elective courses and to insist that, to eliminate discrimination and provide equal educational opportunities, districts must take affirmative methods to see that minority students are not excluded from any elective courses and over-included in others.

All newly established elective courses must be designed to have a non-discriminatory effect. This means that a district cannot, for example, initiate a course in Spanish literature designed exclusively

for Spanish-speaking students so that enrollment in that subject is designed to result in the exclusion of students whose native language is English but who could equally benefit from such a course. Neither may the course be designed to result in the removal of the minority students in question from a general literature course designed to be relevant for all the students served by the district.

V. Instructional Personnel Requirements (see definitions, page 10).

Instructional personnel teaching the students in question must be linguistically/culturally familiar with the background of the students to be affected.

The student/teacher ratio for such programs should equal or be less (fewer students per teacher) than the student/teacher ratio for the district. However, we will not require corrective action by the district if the number of students in such programs is no more than five greater per teacher than the student/teacher ratio for the district.

If instructional staffing is inadequate to implement program requirements, in-service training, directly related to improving student performance, is acceptable as an immediate and temporary response. Plans for providing this training must include at least the following:

A. Objectives of training (must be directly related to ultimately improving student performance).

B. Methods by which the objectives will be achieved.

C. Method for selection of teachers to receive training.

D. Names of personnel doing the training and location of training.

E. Content of training.

F. Evaluation design of training and performance criteria for individuals receiving the training.

G. Proposed timetables.

This temporary in-service training must continue until staff performance criteria has been met.

Another temporary alternative is utilizing paraprofessional persons with the necessary language(s) and cultural background(s). Specific instructional roles of such perosnnel must be included in the plan. Such plan must show that this personnel will aid in teaching and not be restricted to those areas unrelated to the teaching process (checking roll, issuing tardy cards, etc.)

In addition, the district must include a plan for securing the number of qualified teachers necessary to fully implement the instructional program. Development and training of paraprofessionals may be an important source for the development of bilingual/bicultural teachers.

VI. Racial/Ethnic Isolation and/or Identifiability of Schools and Classes.

A. Racially/Ethnically Isolated and/or Identifiable Schools.

It is not educationally necessary nor legally permissible to create racially/ethnically identifiable schools in order to respond to student language characteristics as specified in the programs described herein (see support statement, "Resegregation and Isolation of Minorities" under Lau v. Nichols, 414 U.S. 563, 39 L. Ed. 2d (1974, attachment A).

B. Racially/Ethnically Isolated and/or Identifiable Classes.

The implementation of the aforementioned educational models do not justify the existence of racially/ethnically isolated or identifiable classes, per se. Since there is no conflict in this area as related to the application of the Emergency School Aid Act (ESAA) and existing Title VI regulations, standard application of those regulations is effective.

VII. Notification to Parents of Students Whose Primary or Home Language is Other Than English.

A. School districts have the responsibility to effectively notify the parents of the students, identified as having a primary or home language other than English, of all school activities or notices which are called to the attention of other parents. Such notice, in order to be adequate, must be provided in English and in the necessary language(s) comprehensively paralleling the exact content in English. Be aware that a literal translation may not be sufficient.

B. The district must inform all minority and non-minority parents of all aspects of the programs designed for students of limited English-speaking ability and that these programs constitute an integral part of the total school program.

VIII. Special Education.

See the "Special Education Supplement to ESAA Manual."

All suggested revisions are incorporated.

IX. Evaluation.

A "Product and Process" evaluation is to be submitted in the plan. This type of evaluation, in addition to stating the "product" (end result), must include "process evaluation" (periodic evaluation throughout the implementation stage). A description of the evaluation design is required. Timelines (target for completion of steps) are an essential component.

For the first three years, following the implementation of a plan, the district must submit to the OCR Regional Office, sixty days after school starts, a "progress report" which will show the steps which have been completed. For those steps which have not been completed, a narrative from the district is necessary to explain why the targeted completion dates were not met. Another "progress report" is also due thirty days after the last day of the school year in question.

X. Definition of Terms:

A. Bilingual/Bicultural Program

A program which utilizes the student's native language (example: Navajo) and cultural factors in instructing, maintaining, and further developing all the necessary skills in the student's native language and culture while introducing, maintaining, and developing all the necessary skills in the second language and culture (example: English). The end result is a student who can function, totally, in both languages and cultures.

B. English as Second Language (ESL)

A structured language acquisition program designed to teach English to students whose native language is not English.

C. High Intensive Language Training (HILT)

A total immersion program designed to teach students a new language.

D. Multilingual/Multicultural Program

A program operated under the same principles as a Bilingual/Bicultural Program (X,A) except that more than one language and culture, in addition to English language and culture, is treated. The end result is a student who can function, totally, in more than two languages and cultures.

E. Transitional Bilingual Education Program (TBE)

A program operated in the same manner as a Bilingual/Bicultural Program, except that once the student is fully functional in the second language (English), further instruction in the native language is no longer required.

F. Underachievement

Underachievement is defined as performance in each subject area (e.g., reading, problem solving) at one or more standard deviations below district norms as determined by some objective measures for non-ethnic/racial minority students. Mental ability scores cannot be utilized for determining grade expectancy.

G. Instructional Personnel

Persons involved in teaching activities include, but are not limited to, certified credentialized teachers, paraprofessionals, teacher aides, parents, community volunteers, youth tutors, etc.

OCR FORM 101

School System: _____

(Please read the instructions and definitions on page 1 before completing the following questions.)

8. Pupil Membership Data – Continued	Male, Female or Total	Col. 1 American Indian or Alaskan	Col. 2 Asian or Pacific	Col. 3 Not of Hispanic Origin Black	Col. 4 Not of Hispanic Origin White	Col. 5 Hispanic	Col. 6 Total
a. What was the total pupil membership in this school system on or about January 7, 1977?	Male						
	Female						
Definition: Vocational education programs are those programs (such as Nursing, Plumbing, and Accounting) which provide vocational or technical training, the purpose of which is to prepare the pupil for a gainful occupation. For the purpose of answering the following questions, programs which do not meet the requirements of your state vocational education plan should be included or reflected in the data reported.							
b. How many pupils are enrolled in vocational education programs operated by this school system? (Count pupils only once regardless of the number of programs they are enrolled in.)	Male						
	Female						
b. How many *secondary schools* in this system administer and/or operate *five or more* vocational education programs, as defined above? _____ Schools							
c. How many pupils were suspended *for at least one school day*, or expelled from any school in this system during the 1975-76 school year? (Count pupils only once regardless of how many times they were suspended or expelled. Do not count pupils who were only out of school for less than one school day due to suspension. If no figures are available by sex, furnish total by racial/ethnic group. A breakdown by sex will be *required* in the future.)	Male						
	Female						
	Total						
d. How many pupils in this school system have a primary or home language other than English, which those pupils use or speak exclusively or which those pupils use or speak more often than English?	Total						
e. How many pupils, reported in item d. above, are enrolled in an English-as-a-Second-Language program, or, in any class taught in a language other than English (for example, a science class taught in Spanish)? Do not count pupils enrolled in a class to learn a foreign language.	Total						

Teacher Observation
Student Language Preference

Date_____

Student Name_____ Grade_____

Teacher_____ School_____

In responding to the following questions you are asked to give your honest opinion. Please try to answer every question. Check one response for each numbered question.

	Home Language	English
1. What language does the student prefer to speak in class?	____	____
2. What language does the student respond in when spoken to in English?	____	____
3. When spoken to in the home language, what language does the student respond in?	____	____
4. What language do the student's close friends speak most frequently?	____	____
5. In what language does the student most frequently speak to friends?	____	____
6. In what language is the student's vocabulary greater?	____	____

Check one response for each question:		Partial	Total	None
1. To what extent does the child exhibit comprehension when asked a question:	in English	____	____	____
	in home language	____	____	____
2. In conversation and discussion, to what extent does the child use:	English	____	____	____
	home language	____	____	____

	Always	Almost Always	Sometimes	Almost Never	Never
3. How often does the child use home language when unable to express ideas in English?	____	____	____	____	____
4. How often does the child use English when unable to express ideas in home language?	____	____	____	____	____
5. How often does the child insert English words or slang when speaking in the home language?	____	____	____	____	____
6. How often does the child insert home language words or slang when speaking in English?	____	____	____	____	____

In your opinion, and based on your daily observations of this child, in which language is the child most competent? (Check one)

English_____ Home Language_____ Equally in both_____
(Please Specify)

REMARKS:

Experimental Form

STUDENT LANGUAGE PREFERENCE

Name_____ Date_____

School_____ Grade_____

In responding to the following questions you are asked to give your honest opinion. Please answer every question. Check one response for each numbered question.

	Home Language (Specify)	English
1. What was your first acquired language?	_____	_____
2. What language do you prefer to speak in class?	_____	_____
3. When spoken to in English, what language do you respond in?	_____	_____
4. When spoken to in your home language, what language do you respond in?	_____	_____
5. What language do your friends speak most frequently?	_____	_____
6. What language do you speak to your friends most frequently?	_____	_____

	Always	Almost Always	Sometimes	Almost Never	Never
7. How often do you insert English words or slang when speaking in your home language?	_____	_____	_____	_____	_____
8. How often do you insert home language words or slang when speaking in English?	_____	_____	_____	_____	_____
9. How often do you use English to express ideas?	_____	_____	_____	_____	_____
10. How often do you use home language to express ideas?	_____	_____	_____	_____	_____

Experimental Form

HOME LANGUAGE PREFERENCE

Date_____

Student Name_____ Grade_____

Teacher_____ School_____

Because we feel you are the best source for supplying the required information, we ask your cooperation in filling out this questionnaire Please check one response for each question.

Ya que le consideramos a usted la persona más capacitada para dar la siguiente información, le pedimos su cooperación en llenar este cuestionario. Por favor dé una respuesta para cada pregunta.

Person completing questionnaire: father-padre ___

Persona que responde al cuestionario: mother-madre ___

guardian-guardián ___

brother-hermano ___

sister-hermana ___

NIÑOS-Children Name-Nombre	Escuela que asiste School Attending	Año Grade	Primer idioma que aprendió el niño First language learned by child	Idioma que habla el niño mas frecuentemente en casa Language used most often at home by child	Idioma que usa el niño para comunicarse con otros niños Language child uses most often with other children

	Home Language idioma del hogar	English inglés
1. What language do you consider your home language? ¿Qué considera que sea el idioma de su hogar?	___	___
2. What language does the mother prefer to use at home? ¿Qué idioma prefiere la madre usar en casa?	___	___
3. What language does the father prefer to use at home? ¿Qué idioma prefiere el padre usar en casa?	___	___
4. What language do you prefer to use when speaking to other family members? ¿Qué idioma prefiere usted usar cuando habla con otros miembros de la familia?	___	___
5. When other family members speak to you in English, in what language do you prefer to answer? Cuando otros miembros de la familia le hablan a usted en inglés, ¿en qué idioma prefiere responder?	___	___
6. When other family members speak to you in home language, in what language do you prefer to answer? Cuando otros miembros de la familia le hablan a usted en el idioma del hogar, ¿en qué idioma prefiere responder?	___	___
7. What language do you prefer other family members use when speaking to you? ¿Qué idioma prefiere que usen otros miembros de la familia cuando hablen con usted?	___	___

HOME LANGUAGE PREFERENCE QUESTIONNAIRE

DATE_____

STUDENT NAME_____ GRADE_____

TEACHER_____ SCHOOL_____

BECAUSE WE FEEL YOU ARE THE BEST SOURCE FOR SUPPLYING THE REQUIRED INFORMATION, WE ASK YOUR COOPERATION IN FILLING OUT THIS QUESTIONNAIRE. PLEASE CHECK ONE RESPONSE FOR EACH QUESTION.

NII T'ÉÍ YÁ NIŁ BÉÉ HÓZINGO BINIINAA NA'N DIDÉESH - KIT.

1. PERSON COMPLETING QUESTIONNAIRE:

   HÁ Í SHÁ NAALTSOOS 'IIDOO LÍÍŁ?

   FATHER - 'AZHÉ'É ___
   MOTHER - 'AMÁ ___
   BROTHER - 'ÁNAAÍ/'ATSILÍ ___
   SISTER - ÁDÍ/'ADEEZHÍ ___

2. WHAT LANGUAGE DO YOU CONSIDER YOUR HOME LANGUAGE?

   HOOGHAN DII HÁIDÍGIÍSH SAAD BE YA DAAŁ TI ŁI?

   NAVAJO - DINÉ ___
   ENGLISH - BILAGÁANA ___

	HOME LANGUAGE HOOGHANGII SAAD	ENGLISH BILAGAÁNA
1. WHAT LANGUAGE DOES THE MOTHER PREFER TO USE AT HOME? HOOGHANDII HÁIDIGIISH SAAD 'AMÁ YÁA YAŁ TIŁI?	____	____
2. WHAT LANGUAGE DOES THE FATHER PREFER TO USE AT HOME? HOOGHANDII HÁIDIGIISH SAAD 'AZHÉ'É YAA YAŁ TI ŁI?	____	____

	HOME LANGUAGE HOOGHANGII SAAD	ENGLISH BILAGAANA
3. WHAT LANGUAGE DO YOU PREFER TO USE WHEN SPEAKING TO OTHER FAMILY MEMBERS? NIISH EI' HÁIDIGIÍ SAAD NIɬ YÁ 'ATÉÉH?	_____	_____
4. WHEN OTHER FAMILY MEMBERS SPEAK TO YOU IN ENGLISH, IN WHAT LANGUAGE DO YOU PREFER TO ANSWER? NI K'A ɬA' BILAGAANA BIZAAD KÁÁ JI' GO NICH' I' HA TSII GÓÓ HÁIDISH SAAD BI NAATAAH HADI DZIH?	_____	_____
5. WHEN OTHER FAMILY MEMBERS SPEAK TO YOU IN HOME LANGUAGE, IN WHAT LANGUAGE DO YOU PREFER TO ANSWER? NI K'A'TA' DINE'É BIZAAD KAA JI GO NICH'I' HA TSII GOO HÁIDISH SAAD BI NAATAAH HADI DZIH?	_____	_____
6. WHAT LANGUAGE DO YOU PREFER OTHER FAMILY MEMBERS USE WHEN SPEAKING TO YOU? NI K'A NICH'I' YA DAɬTI' GOO HÁIDISH SAAD GO NIɬ YÁ' ÁT' ÉÉH?	_____	_____
7. WHAT LANGUAGE DOES THE FAMILY USE MOST OFTEN AT HOME? HOOGHANDISH HA JI GO SAAD ALADI BAA' YAADAɬ LI'?	_____	_____
8. WHAT LANGUAGE DO YOU USE MOST OFTEN AT HOME? HAIDISH SAAD BI YANIɬTI' ɬI HOOGHAN GII?	_____	_____